



FEDERAL ELECTION COMMISSION
WASHINGTON, D C 20463

DEC 19 2007

Mr David E Frulla, Esq
Kelley Drye Collier Shannon
Washington Harbour, Suite 400
3050 K Street, NW
Washington, D C 20007-5108

RE MUR 5905
National Association of Social Workers, Inc ,
National Association of Social Workers, Inc
Political Action for Candidate Election, and
Jacqueline Steingold, as Treasurer

Dear Mr Frulla

On March 14, 2007, the Federal Election Commission notified your clients, the National Association of Social Workers, Inc ("NASW"), National Association of Social Workers, Inc Political Action for Candidate Election ("PACE"), and Jacqueline Steingold, as Treasurer, of a complaint alleging violations of certain sections of the Federal Election Campaign Act of 1971, as amended ("the Act") A copy of the complaint was forwarded to your clients at that time

Upon further review of the allegations contained in the complaint and information supplied by your clients, the Commission, on December 3, 2007, found that there is reason to believe NASW violated 2 U S C § 432(b)(2)(B) and 11 C F R §§ 102 6(c)(4) and 102 8(b), and PACE, and Jacqueline Steingold, as Treasurer, violated 11 C F R § 102 6(c)(1) In addition, the Commission found that there is no reason to believe Elizabeth J Clark, NASW Executive Director, Kathleen Waugh, NASW Chief Operating Officer, Carolyn I Polowy, NASW General Counsel, and Denise McKenzie, NASW Acting Controller, violated the Act and closed its file in this matter as it pertains to these four individual respondents The Factual and Legal Analyses, which formed a basis for the Commission's findings, are enclosed for your information

You may submit any factual or legal materials that you believe are relevant to the Commission's consideration of this matter Please submit such materials to the General Counsel's Office within thirty days of receipt of this letter Where appropriate, statements should

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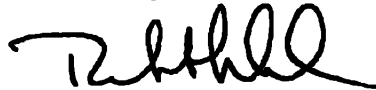
Mr David E Frulla, Esq
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be submitted under oath In the absence of additional information, the Commission may find probable cause to believe that a violation has occurred and proceed with conciliation

Requests for extensions of time will not be routinely granted Requests must be made in writing at least five days prior to the due date of the response and specific good cause must be demonstrated In addition, the Office of the General Counsel ordinarily will not give extensions beyond 20 days

The Commission reminds you that the confidentiality provisions of 2 U S C § 437g(a)(12)(A) remain in effect, and that this matter is still open with respect to other respondents If you have any questions, please contact April Sands, the attorney assigned to this matter, at (202) 694-1650

Sincerely,



Robert D Lenhard
Chairman

Enclosures
Factual and Legal Analyses

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FEDERAL ELECTION COMMISSION

FACTUAL AND LEGAL ANALYSIS

MUR 5905

RESPONDENTS:

National Association of Social Workers, Inc

National Association of Social Workers, Inc

**Political Action for Candidate Election and
Jacqueline Steingold, in her official capacity
as Treasurer**

According to its website, the National Association of Social Workers ("NASW") is the largest membership organization of professional social workers in the world with 150,000 members. National Association of Social Workers, Inc. Political Action for Candidate Election ("PACE") was formed almost thirty years ago and is the political action arm of NASW. As a political action committee, PACE endorses and financially contributes to candidates who support NASW's policy agenda. PACE is funded almost entirely by member contributions and reimburses NASW for virtually all PACE administrative expenses incurred on its behalf, including its share of rent, staff salaries, benefits, and administrative overhead.

As Assistant Treasurer for PACE, the Complainant's job responsibilities included keeping the PACE board informed regarding PACE's financial position and PACE political activities. According to the complaint, the Complainant began having a number of accounting questions regarding PACE in September 2006. One month later, the Complainant became a whistleblower regarding her concerns to NASW auditors, a NASW Finance Committee member, and the NASW President. To assess the Complainant's allegations, the respondents hired a forensic accounting firm, Financial Corporate Legal Advisors, Int'l, Inc. (FCL Advisors) that "reviewed and tested each of the allegations" in the complaint filed with the Commission.

NASW Response at 2 FCL Advisors also “conducted a general, thorough analysis of NASW and PACE financial data” for calendar year 2006 *Id* In a Report signed by two CPAs, FCL Advisors confirmed the late transfers of funds from NASW to PACE but found no evidence to support the complainant’s other allegations

The Complainant alleged that NASW failed to forward contributions from members intended for deposit into the PACE account While NASW admits that there were four occasions in which NASW failed to timely remit payments to PACE within the 30-day required period, all money intended for PACE appears to have eventually been transferred to PACE

A “collecting agent” is an organization or committee that collects and transmits contributions to one or more separate segregated funds to which the collecting agent is related See 11 C F R § 102 6(b)(1) A parent, subsidiary, branch, division, department, or local unit of the connected organization or the separate segregated fund may act as collecting agent for the separate segregated fund (SSF) See 11 C F R § 102 6(b)(1)(u) According to its filings with the Commission, PACE holds itself out as the SSF of NASW and has listed NASW as its connected organization Thus, NASW appears to be an entity that may act as a collecting agent for PACE *See id*

The Commission’s regulations require collecting agents to follow certain procedures for collecting and transmitting contributions for the SSF in order not to have their own reporting requirements For purposes of making transmittals of contributions received in forms other than checks made payable to the separate segregated fund, the collecting agent must either 1) set up a transmittal account to be used solely for the deposit and transmittal of funds collected on behalf of the separate segregated fund, 2) deposit such contributions into the agent’s treasury account, keeping separate records, or 3) deposit them into an account used only for state and local election

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1 activity See 11 C F R § 102 6(c)(4)(u) A collecting agent that follows these procedures is not
2 required to register and report as a political committee provided that the organization does not
3 engage in activities such as making contributions or expenditures for the purpose of influencing
4 federal elections See 11 C F R § 102 6(b)(2)

5 As the collecting agent for PACE, NASW is required to forward contributions of \$50 or
6 less to the treasurer of PACE within 30 days of receipt See 2 U S C § 432(b)(2)(A) and
7 11 C F R § 102 8(b)(1) In addition, NASW must forward contributions in excess of \$50 to the
8 treasurer of PACE within 10 days of receipt, along with the name and address of the contributor
9 and the date of receipt of the contribution See 2 U S C § 432(b)(2)(B) and 11 C F R
10 § 102 8(b)(2) The respondents admit that on four occasions in 2005 and 2006, NASW failed to
11 timely remit payments to PACE within the 30-day required period Specifically, the four late
12 transfers were (1) June 2005 contributions transferred approximately 26 days late, (2) June 2006
13 contributions transferred approximately 15 days late, (3) July 2006 contributions transferred
14 approximately 30 days late, and (4) December 2006 contributions transferred approximately
15 14 days late With respect to the December 2006 contributions, FCL Advisors stated that while
16 it determined this transfer to be "technically late, we noted that the check date was January 4,
17 2007 (timely), but because it was not timely mailed (due to a sick leave issue) we found that the
18 item is technically not a deposit in transit and thus should be considered a late deposit "

19 Therefore, the Commission finds reason to believe that NASW violated 2 U S C
20 § 432(b)(2)(B) and 11 C F R §§ 102 8(b) and 102 6(c)(4) by failing to timely forward to PACE
21 contributions NASW received as a collecting agent Because PACE is charged with ensuring
22 that the transmittal requirements regarding contributions received by its collecting agent are met,

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1 the Commission finds reason to believe that PACE and Jacqueline Steingold, in her official
2 capacity as Treasurer, violated 11 C F R §102 6(c)(1)

3 The Commission finds no reason to believe that PACE and Jacqueline Steingold, in her
4 official capacity as Treasurer, violated 2 U S C § 434(b) by failing to timely disclose
5 expenditures The complaint alleged that expenses paid for by NASW and eventually
6 reimbursed by PACE were expensed during one fiscal year but were not reported on PACE's
7 disclosure reports until the following fiscal year At issue here are reoccurring, administrative
8 expenses incurred by PACE in May and June of 2006, for items such as rent, postage,
9 photocopying, administrative overhead, and courier services These expenses were paid for by
10 NASW when they were incurred (in its efforts to establish, administer and financially support a
11 political committee), reimbursed by PACE to NASW in August 2006, and disclosed by PACE in
12 its September 2006 monthly disclosure report A connected organization can legally pay all
13 administrative expenses incurred by a PAC, and the PAC has no legal obligation to reimburse the
14 connected organization for those expenses or disclose the payments made by the connected
15 organization for administrative expenses See 11 C F R §§ 100 6(a) and 114 5(b) Therefore, if
16 a PAC chooses to reimburse its connected organization for such expenses, such reimbursement
17 need not occur within any specified period of time, although the PAC must timely disclose any
18 disbursements it makes to reimburse the connected organization Because it appears that PACE
19 timely reported the disbursements that it made to reimburse NASW, there does not appear to be a
20 violation of the Act

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1 **FEDERAL ELECTION COMMISSION**

2 **FACTUAL AND LEGAL ANALYSIS**

3 **MUR 5905**

4 **RESPONDENTS:**

5 Elizabeth J Clark, NASW Executive Director

6 Kathleen Waugh, NASW Chief Operating Officer

7 Carolyn I Polowy, NASW General Counsel

8 Denise McKenzie, NASW Acting Controller

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13 Complainant, the former assistant treasurer of National Association of Social Workers,
14 Inc Political Action for Candidate Election ("PACE"), makes several allegations against her
15 former employer Specifically, the complaint alleges (1) that National Association of Social
16 Workers, Inc ("NASW") may not be depositing member donations to PACE within 30 days of
17 receipt, (2) that NASW is using PACE contributions for administrative overhead and to help pay
18 NASW pension costs, (3) that PACE is not timely reporting its expenses, and (4) that NASW is
19 billing PACE for inappropriate non-PACE expenses and overcharged PACE for administrative
20 overhead ¹

21 The complaint named several NASW officers as "respondents " However, because there
22 are no specific allegations as to them and there is no information suggesting a basis upon which
23 any officers may be held personally liable, the Commission finds no reason to believe that a
24 violation of the Federal Election Campaign Act of 1971, as amended, occurred with respect to
25 Elizabeth J Clark, NASW Executive Director, Kathleen Waugh, NASW Chief Operating

¹ According to its website, NASW is the largest membership organization of professional social workers in the world with 150,000 members PACE was formed almost thirty years ago and is the political action arm of NASW As a political action committee, PACE endorses and financially contributes to candidates who support NASW's policy agenda PACE is funded almost entirely by member contributions and reimburses NASW for virtually all PACE administrative expenses incurred on its behalf, including its share of rent, staff salaries, benefits, and administrative overhead

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- 1 Officer, Carolyn I Polowy, NASW General Counsel, and Denise McKenzie, NASW Acting**
- 2 Controller**

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